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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,949	12/03/2001	Darrell L. Ward	069958.0102	7832
5073	7590	03/01/2004	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			SAADAT, CAMERON	
			ART UNIT	PAPER NUMBER
			3713	6
DATE MAILED: 03/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary	Application No.	Applicant(s)
	10/004,949	WARD, DARRELL L.
	Examiner Cameron Saadat	Art Unit 3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-40 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

In response to amendment filed 11/26/03 claims 1-22 and newly added claims 23-40 are pending in this application. Regarding claims 1-22, the rejections set forth in paper No. 4 mailed 8/27/03 are hereby maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson et al.

(USPN 5,823,788; hereinafter Lemelson)

Regarding claim 37, Lemelson discloses a graphical user interface, comprising: a plurality of sections on a display simultaneously viewable by users of a plurality of remote units, each section corresponding to one of the remote units, each section displaying: a first portion displaying a remote unit identifier identifying the remote unit corresponding to the section; and a second portion displaying a question identifier identifying a particular one of a plurality of questions; and a visual indication operable to be displayed in a selected section of the display when a message is received by a base station from a selected remote unit corresponding to the selected section, wherein the message comprises a response to the question identified by the question identifier (Col. 3, lines 1-19).

Regarding claim 38, Lemelson discloses a graphical user interface, wherein the graphical user interface appears on a single display simultaneously viewable by all of the users of the remote units (Col. 3, lines 1-24).

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Regarding claim 39 Lemelson discloses a graphical user interface, wherein the second portion is further operable to display a new question identifier in response to a command from the remote unit (Col. 3, lines 1-19).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 23-26, 28-33, 35-36 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson et al. (USPN 5,823,788; hereinafter Lemelson) in view of Ziv-El (USPN 6,302,698 B1).

Regarding claims 23 and 30, Lemelson discloses a method for communicating in an education environment, comprising: displaying a plurality of sections on a display, each one of the sections associated with one of a plurality of remote units; receiving from a selected remote unit a message comprising a remote unit identifier for the selected remote unit and a current response to a question, the question having a plurality of possible responses; and in response to receiving the current response from the selected remote unit, displaying a visual indication in the section corresponding to the selected remote

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unit (Col. 3, lines 1-7). Lemelson does not explicitly disclose a visual indication indicating whether the current response corresponds to a previous response to the question received from the one remote unit. However, Ziv-El discloses an educational system wherein a visual indication is provided indicating whether the current response corresponds to a previous response to the question received from the one remote unit (see tries section, Fig. 14). Hence, it would have been obvious to a person of ordinary skill in the art to modify the visual indications described in Lemelson, by providing an indication of whether the current response corresponds to a previous response to the question, in light of the teachings of Ziv-El, such that a teacher may identify how many times a student has attempted to respond to a question, and thereby allowing a teacher to track a student's progress on a dynamic screen.

Regarding claims 24 and 31, Lemelson discloses a method, wherein the display is simultaneously viewable by all of the users of the remote units (Col. 3, lines 1-24).

Regarding claims 25 and 32, Lemelson discloses a method further comprising displaying the remote unit identifier for each remote unit in the corresponding section of the display (Col. 3, lines 5-6).

Regarding claims 26 and 33, Lemelson discloses all of the claimed subject matter with the exception of explicitly disclosing that the visual indication comprises flashing the remote unit identifier in a particular color. However, Ziv-El teaches an educational method, wherein the remote unit identification further comprises color-coding for the visual indications (Col. 22, lines 53-66). Hence, it would have been obvious to a person of ordinary skill in the art to modify the visual indications described in Lemelson, by providing color-coding for the visual indications, in light of the teachings of Ziv-El, such that a teacher may examine each of the users' progress on a dynamic screen.

Regarding claims 28 and 35, Lemelson discloses a method, wherein: the message is received from the selected remote unit wirelessly (Col. 1, lines 37-60); and subsequent messages from the one remote unit are disregarded for a predetermined amount of time after the current message is received (Col. 16, lines 53-60).

Regarding claims 29 and 36, Lemelson discloses a method wherein a different question may be associated with each remote unit, and the method further comprises determining the question associated with the selected remote unit (Col. 4, lines 2-16).

Regarding claim 40, Lemelson does not explicitly disclose a visual indication indicating whether the current response corresponds to a previous response to the question received from the one remote unit. However, Ziv-El discloses an educational system wherein a visual indication is provided indicating whether the current response corresponds to a previous response to the question received from the one remote unit (see tries section, Fig. 14). Hence, it would have been obvious to a person of ordinary skill in the art to modify the visual indications described in Lemelson, by providing an indication of whether the current response corresponds to a previous response to the question, in light of the teachings of Ziv-El, such that a teacher may identify how many times a student has attempted to respond to a question, and thereby allowing a teacher to track a student's progress on a dynamic screen.

Claims 27 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson et al. (USPN 5,823,788; hereinafter Lemelson) in view of Ziv-El (USPN 6,302,698 B1), further in view of Sonnenfeld (USPN 6,112,049).

Regarding claims 27 and 34, Lemelson discloses a method, further comprising: determining whether the current response corresponds to a correct or incorrect answer. The combination of Lemelson and Ziv-El does not explicitly disclose the feature of determining that a response does not correspond to any of the possible answers to the question. However, Sonnenfeld discloses an educational method wherein each question result indicates whether a response was correct, incorrect, or if it does not correspond to any of the possible answers (Col. 62, lines 47-63). In view of Sonnenfeld it would have been obvious to an artisan to modify the response analysis described in the combination of Lemelson and Ziv-El by indicating that a response does not correspond to any possible response in order to accurately

compute question response statistics, which indicate whether a user responded correctly, incorrectly, or provided no response or an unknown response.

Response to Arguments

Applicant's arguments filed 11/26/03 with have been fully considered but they are not persuasive.

Applicant emphasizes that Abrahamson does not determine whether a response is "valid", but rather indicates whether a response is correct. It is noted, by the examiner, that the claims are given their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

It appears that one embodiment in applicant's specification characterizes a "valid" response to a question as selecting one of the possible answers of a question, and an "invalid" response being defined as inadvertently pressing a button which is neither a possible answer nor a command (See Specification, P. 13). However, it is noted that limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process."). Thus Abrahamson does indicate whether a response is valid (Col. 12, line 50).

Applicant additionally emphasizes that Abrahamson does not provide *visual* indication that a response is valid. However, Abrahamson provides a display that visually indicates the validity of student responses (See Figs. 4DD, 4EE, 5A-B).

Applicant further requests the examiner to cite a reference supporting the examiner's assertions made in reference to claims 3 and 19. In response to applicant's request, regarding claim 3, see (USPN 6,039,575, L'Allier et al.), the assertion that during the step of providing remedial action, it is well known to provide further questioning in response to a student's strengths and weaknesses (L'Allier et al., See Figs 2-3).

In response to applicant's request, regarding claim 19, (See USPN 5,823,788, Lemelson et al.), the assertion that it is well known in the educational arts to limit the number of responses that are accepted for each question (Lemelson et al., Col. 16, lines 53-60)

Applicant alleges that Ziv-El does not provide the feature of *providing a single display simultaneously viewable by all users of remote users*. It is noted by the examiner that Ziv-El is not relied upon for providing said feature since Abrahamson clearly teaches said feature.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 8:00 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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CS


Teresa Walberg
Supervisory Patent Examiner
Group 3700